

## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

<input type="checkbox"/> <b>CENTRAL DIVISION</b>	220 W. BROADWAY, SAN DIEGO, CA 92101-3814	(619) 531-3039
<input type="checkbox"/> <b>KEARNY MESA BRANCH</b>	8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187	(858) 495-5051
<input type="checkbox"/> <b>EAST COUNTY DIVISION</b>	250 E. MAIN ST., EL CAJON, CA 92020-3941	(619) 441-4100
<input type="checkbox"/> <b>NORTH COUNTY DIVISION</b>	325 S. MELROSE DR., ANNEX BLDG., STE. 350, VISTA, CA 92081	(760) 726-9595
<input type="checkbox"/> <b>SOUTH COUNTY DIVISION</b>	500 THIRD AVE., CHULA VISTA, CA 91910-5649	(619) 691-4726

### APPEAL PROCEDURE – INFRACTIONS [CRC 180-191]

#### WHAT IS AN APPEAL?

<b>Your Right To Appeal</b>	You have the right to appeal a decision of the San Diego Superior Court to the Appellate Division of the Superior Court.
<b>What An Appeal Does</b>	<p>The Appellate Division will review the action of the trial court. Your task in bringing your appeal is to convince the reviewing court that the trial court erred in hearing your case and that the error was sufficient to cause its action to be reversed. Your reason(s) for believing the court's action should be reversed are called your "ground(s) for appeal."</p> <p>If you are successful on appeal, the decision or order of the trial judge will be set aside and your case will be returned to the trial court for re-hearing or for further action.</p>
<b>What An Appeal Does Not Do</b>	<p>The Appellate Division will <b>not</b> conduct a new trial, consider new facts, or re-weigh the credibility of witnesses. Evidence that was not presented to the trial court cannot be included in the appeal.</p> <p>The filing of an appeal does <b>not</b> prevent a traffic conviction from being reported to the DMV. Your conviction will be removed from DMV records only if it is reversed on appeal.</p> <p>The filing of an appeal does <b>not</b> automatically stay the conditions of your sentence. While your case is on appeal, you are responsible for complying with all orders of the court concerning your case.</p> <p><b>FINES</b> If you wish to have your fine stayed pending resolution of your appeal, you must make that request before the court in which you were sentenced.</p> <p><b>TRAFFIC SCHOOL</b> If the court has given you the option of completing traffic school to qualify for dismissal of your case, you should be aware that the trial court does not have jurisdiction to set aside your conviction and dismiss your case while an appeal is pending. If you wish to request the court to stay completion of traffic school pending the ruling on your appeal, you must make your request before the trial court.</p>

#### WHERE TO GET HELP

<b>Attorneys</b>	Appellants are not entitled to court-appointed counsel in an infraction matter. You may seek legal counsel on your own.
<b>Law Libraries</b>	<p>Appeal information can be found in any law library. Refer to government telephone listings for San Diego County Law Library branch locations and hours.</p> <p>The law governing appeals in infraction matters is contained in the California Rules of Court. <i>[NOTE: Experimental Rule 187.5 has been adopted by this court pursuant to Local Appellate Rule 7.2 and governs appeals in infraction matters pursuant to Penal Code Section 19.7.]</i></p> <p>Procedural information and pleading formats are contained in appeal practice guides and treatises.</p>
<b>Other Sources</b>	You may also wish to consult other libraries, book stores, or web sites. See the following web sites for access to court rules and statutes: <a href="http://www.leginfo.ca.gov">www.leginfo.ca.gov</a> , <a href="http://www.courtinfo.ca.gov">www.courtinfo.ca.gov</a>

#### YOU SHOULD KNOW:

<b>Commissioners &amp; Judges Pro Tem</b>	Judges pro tem are appointed by the judges of the court to hear specific matters by stipulation of the parties. Commissioners are judicial officers who have the same qualifications for office as judges. They are appointed by the judges and are empowered by law to hear various types of cases.
<b>Legal Advice &amp; Representation</b>	<p>Court staff <b>cannot</b> give you legal advice. The law prohibits anyone who is not an attorney from giving you legal advice or representing you in any legal matter.</p> <p>If you are representing yourself, you are responsible for meeting all the legal requirements for conducting your appeal. If you are represented by counsel, it is expected that all court business will be conducted through your attorney of record.</p>

**[See reverse for further information]**

## **THE BASIC STEPS**

<b>Notice Of Appeal</b>	The notice of appeal must be filed within 30 days of the judgment or order you wish to appeal. It is your formal notice to the court that you are appealing its decision. <i>[See Rule 182(a).]</i>
<b>Settled Statement</b>	<p>You must file a proposed settled statement within 30 days of the date the tapes of the proceedings are mailed to you. The settled statement is a formal written summary of the proceedings and evidence in the trial court. It must contain your grounds for appeal and is designed to assist the appellate judges in reviewing your case. The opposing party (the prosecuting agency) will have 20 days to file a response to your statement with any corrections or additions it considers appropriate.</p> <p>The trial court judge or commissioner who heard your matter is responsible for resolving any disputes concerning the statement and will certify in writing the resolution of the disputed issues. The record on appeal will then be transferred to the Appellate Division. <i>[See Rule 187.5(g).]</i></p>
<b>Briefs</b>	Once the Appellate Division has received your appeal, you will be notified of a hearing date and a schedule for the filing of briefs. Briefs are the written summaries of the parties' legal arguments that are filed prior to the hearing. You are required to file an opening brief and may file a reply brief if you wish. <i>[See Rules 103, 105.]</i>
<b>Hearing and Decision</b>	You are not required to make an oral argument at the hearing, but may elect to do so. Tentative rulings are posted on the day of the hearing. The decisions of the appellate judges are usually announced at the hearing but do not become final until after the time periods prescribed in the Rules of Court. <i>[See Rules 106 and 107.]</i>
<b>Remittitur</b>	Once the decision of the appellate judges has become final, a "remittitur" will be issued containing the Appellate Division's formal order and returning jurisdiction over your case to the trial court. The trial court is responsible for carrying out the Appellate Division's order. <i>[See Rule 191.]</i>

## **ABOUT FILING**

Forms & Pleadings

Where To File

Filing Deadlines

Service Of Papers

The appeal forms shown below are available in the trial court in which your matter was heard. All other papers must be prepared by the filing party. All forms and pleadings filed with the court must be **original** (signed in ink) and contain your name, address, and daytime telephone number. *[See Rule 201 for format requirements.]*

For on-line access to appeal forms, click on the form titles below:

NOTICE OF APPEAL (Infraction)	(TR-155)	(link)
PROPOSED STATEMENT ON APPEAL (Infraction)	(TR-160)	(link)
ABANDONMENT OF APPEAL (Infraction)	(TR-165)	(link)

Your papers should be filed with the appeal clerk in the trial court. Office addresses and telephone numbers for each court are listed in the heading on the front of this form.

Papers filed with the court must be **received** by the filing deadline. Postmarks are **not** accepted. Filing time is calculated in calendar days, unless otherwise specified. If your filing deadline falls on a Saturday, Sunday, or court holiday, the deadline is extended to the next court day. *[See Code of Civil Procedure, Sections 10, 12(a).]*

You must observe the legal requirements for serving the opposing party with copies of the **original** pleadings you file with the court. Refer to addresses below. *[See Code of Civil Procedure, Section 1013(a) and (b).]*

SD CITY ATTORNEY: Appellate Unit • 1200 Third Ave., Ste. 700 • San Diego, CA 92101  
DISTRICT ATTORNEY: Contact the District Attorney to obtain the correct branch address.

## **THE RECORD ON APPEAL**

<b>Documents &amp; Records</b>	<p>The record on appeal consists of copies of the citation or complaint, the court minutes, your notice of appeal, the engrossed settled statement, and other pertinent documents. <i>[See CRC183(a).]</i></p> <p>Audio recordings of the proceedings and exhibits are <b>not</b> included in the record on appeal, pursuant to Appellate Division policy.</p>
<b>Audio Recordings</b>	All proceedings in infraction matters are electronically recorded. A copy of the audio recording of the proceedings in your case will be provided to you for use in preparing your appeal. <i>[See Rule 187.5(c)].</i>
<b>Transcripts</b>	The use of a transcript is not required. You must bear the cost of a transcript if you elect to use one. All transcripts must be accompanied by the original certification of the transcriber.